

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

In Re: Patricia B. Patterson)
Ward 68, Block 23, Parcel 13)
Residential Property) Shelby County
Tax year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The Shelby County Board of Equalization ("county board") has valued the subject property for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$51,000	\$207,000	\$258,000	\$64,500

On March 14, 2006, the property owner filed an appeal with the State Board of Equalization ("State Board").

The undersigned administrative judge conducted a hearing of this matter on May 31, 2006 in Memphis. The appellant, Patricia B. Patterson, was represented by her husband Wiley Patterson. Staff appraiser Teri Brandon appeared on behalf of the Shelby County Assessor of Property.

Findings of Fact and Conclusions of Law

The subject property consists of a single-family residence at 5450 Walnut Grove Road in Memphis, between Perkins Road and Interstate 240. Built in 1958, this brick veneer dwelling contains 2,903 square feet of living area and an attached garage.

Mr. Patterson characterized the real estate market on this section of Walnut Grove as a declining one because of the heavy traffic. According to his information, there were only three residential sales there during the one-year period ending April 12, 2005. Those transactions were as follows:

<u>Address</u>	<u>Square Feet</u>	<u>Sale Price</u>	<u>Sale Price/Square Foot</u>
4971	2,104 ¹	\$188,000	\$89.35
5503	4,715	\$328,000	\$69.57
5585	3,614	\$210,000	\$58.11

The sales of 5503 and 5585 Walnut Grove apparently happened *after* the January 1, 2005 reappraisal date.

¹Based on his photographs of an apparent addition to the house at 4971 Walnut Grove, Mr. Patterson suggested that its actual size may have been larger.

The appellant conceded that his house was worth more per square foot than the two considerably larger homes identified above. In his view, however, the subject property would most appropriately be valued at the *average* of these three sale prices per square foot (\$72.34, or \$210,000).

While acknowledging the severity of the traffic problem, Ms. Brandon still considered Walnut Grove Road to be a “prestigious” location in the Bluff City. Of the numerous sales on that street listed in the “Custom Comparables Report” prepared by the Assessor’s office, the following involved homes between Perkins and I-240:

<u>Address</u>	<u>Square Feet</u>	<u>Sale Price</u>	<u>Sale Price/Square Foot</u>
5504	2,601	\$227,000	\$87.27
5515	3,134	\$265,000	\$84.56
5644	2,475	\$190,000	\$76.77 ²

All three of the above sales took place in 2003.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values....”

Since the taxpayer seeks to change the present valuation of the subject property, she has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

For two reasons, the administrative judge must respectfully reject the \$210,000 value propounded by the taxpayer. In Acme Boot Company & Ashland City Industrial Corporation (Cheatham County, Tax Year 1989, Final Decision and Order, August 7, 1990), the Assessment Appeals Commission upheld a finding that sales, listings, or other events occurring after the (January 1) assessment date for the tax year in controversy are not relevant “unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events.” *Id.* at p. 2. Hence the amounts paid for 5503 and 5585 Walnut Grove after January 1, 2005 cannot be considered in the valuation of the subject property as of that date. Moreover, those houses were substantially larger than the subject; and “[s]ale price per square foot usually decreases as square feet increase.” International Association of Assessing Officers, Property Appraisal and Assessment Administration (1990), p. 162.

Of the 2003-04 sales in the record on Walnut Grove between Perkins and I-240, 5515 Walnut Grove appeared to be most similar to the subject in size, age, and other physical characteristics. Ordinarily, some degree of appreciation during the 16-month period between the sale and reappraisal dates (i.e., August 28, 2003—January 1, 2005) would be expected; but evidence adduced by the appellant suggests otherwise for this particular stretch of the road. In

²This was reportedly a Fannie Mae (FNMA) foreclosure sale. Like other types of forced sales, foreclosure sales may be unreliable indicators of market value.

the opinion of the administrative judge, then, the somewhat smaller residence under appeal should be valued at \$85 per square foot (or \$246,800, after rounding).

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$51,000	\$195,800	\$246,800	\$61,700

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 14th day of July, 2006.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Wiley Patterson
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office